IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 4238 OF 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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KAMLESH I. PARMAR & ORS. - Petitioner(s)

Versus

HINDUSTAN PETROLEUM CORPORATION LTD. - Respondent(s)

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Appearance :
Shri A. K. Clerk for Petitioner(s) : 1 - 3.
Ms. Minoo A. Shah for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 01/08/2007

ORAL JUDGMENT

Shri A.K. Clerk, learned Counsel for the petitioners, and Ms.

Minoo Shah, learned Counsel for the respondents, submit that this petition can be disposed of in terms of the order dated 12th January, 2005 passed in Special Civil Application No.4239 of 1998 (Kalubhai Gandabhai Dantani vs. Hindustan Petroleum Corporation Ltd.)

Looking to the prayers made by the petitioners in paragraph 19(A), (B) and (C), there is dispute between the petitioners-workmen and respondents as to whether they are employees of the contract labour or employees of the respondents. Such disputed question of fact cannot appropriately be dealt with and decided by this Court in exercise of extraordinary powers under Articles 226 of the Constitution of India. Therefore, this Court has not entertained this petition and has not considered the merits of the matter and the petition is disposed of without examining merits of the matter. However, it will be open for the petitioners to raise an industrial dispute or to file an application under the provisions of Contract Labour (Regulation Abolition) Act, 1970 before the appropriate authority within one month from the date of receipt of copy of this order. Thereafter, the concerned authority before whom the application is to be filed by the petitioners will consider such application and will examine the issue and pass appropriate orders within two months from the date of receipt of such application from the petitioners. If the reference is made before the concerned Tribunal by

the appropriate authority, then, the petitioners will have to file an application before the concerned Tribunal about the interim relief. After the application is filed by the petitioners about the interim relief before the concerned Tribunal, the Tribunal shall consider and decide the same in accordance with law within three months from the date of filing of such application. Interim relief granted by this Court on 29th May, 1998 will continue to operate till the application for interim relief is decided by the Tribunal, as directed above. With these observations and directions, this petition is disposed of without observing anything on merits. Rule is discharged. No order as to costs.

[R.S.Garg, J.]

*kamlesh**